IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION No.2315 OF 2004

Shri Balaso Aba Shelke .. ..Petitioner

Versus

Hutama Kisan Aher Sahakari Sakhar Karkhana Ltd., Walwa and Ors. .. ..Respondents

Mr.K.S.Bapat for petitioner

Mr.S.S.Pakale for respondent no.1

CORAM : P.V.KAKADE, J.

DATE : 9TH JANUARY 2006.

P.C.:

1. Heard the learned counsel for the petitioner as well as for the respondents.

2. The Petitioner has challenged the order dated 10.6.2003 passed by Member, Industrial Court, Kolhapur allowing Appeal Nos. 1 and 2 of 2000 and setting aside the Labour Court's Order dated 29.2.2000 giving directions to the Respondents to reinstate the Petitioner with continuity of service along with 50% backwages and setting aside the Order dated 28.8.1995 and Application No.86 of 1999 came to be dismissed along with Appeal (IC) No.2 of 2000.

3. The Petitioner had filed an application against the employer under Sections 78 and 79 of the Bombay Industrial Relations Act, 1946 challenging his termination Order dated 28.8.1995. The Labour Court after hearing both the parties came to the conclusion that though the enquiry held against the petitioner was legal and proper and findings of the enquiry officer about the misconducts were justified by the evidence during the course of the enquiry, still the punishment of dismissal awarded to the petitioner was held to be illegal and inappropriate and therefore, direction for reinstatement came to be passed. The appeal was preferred against the said order before the Industrial Court, Kolhapur, who after hearing both the

parties came to the conclusion that the findings recorded by the Labour Court in respect of punishment was not legal and proper and therefore, the order of removal from service consequent to the enquiry came to be upheld. Hence the present Petition.

4. In this regard it must be noted that we are concerned only with the propriety and quantum of punishment passed against the petitioner. The Industrial Court appears to have came to the conclusion that it cannot be denied that absenteeism erodes the very potentiality, credibility and productivity of any company or organisation and and punctuality is must. Regularity in attendance is implied service condition and an employee must not absent himself from work without sufficient cause. In the present case, applicant’s explanation that he was not allowed to join duties was also held to be an after thought and therefore, was illegal. The learned counsel for the petitioner submitted that apart from the fact that the punishment awarded is not in proportionate with the misconduct of the petitioner, his unblemished service should have been taken into account by the Industrial Court which has not been done. However, in my considered opinion, the view taken by the Industrial Court

appears to be reasonable and proper, especially when the only defence taken by the petitioner was found to be only an after thought. Under the circumstances, I do not see any reason to interfere with the order passed by the Industrial Court. It is needless to mention that unauthorised absence from duties on employer’s service and gravity of misconduct of such nature has to be dealt with scrupulously and seriously.

. In the result the Petition fails and stands dismissed with no order as to costs.